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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
PENDLETON DIVISION**

**JESSICA BATES,**

Plaintiff,

v.

**FARIBORZ PAKSERESHT, et al.,**

Defendants.

Case No.: 2:23-cv-00474-AN

**JOINT RULE 26(f) REPORT**

Plaintiff Jessica Bates, and Defendants Fariborz Pakseresht, Liesl Wendt, Aprille Flint-Gerner, Rebecca Garrison, and Cecilia Garcia submit the following report pursuant to this Court's Discovery and Pretrial Scheduling Order (Doc. 2).

**1. Conferral**

Pursuant to Federal Rule of Civil Procedure 26(f), a telephonic meeting was held on July 21, 2023, and was attended by Rebekah Schultheiss and Johannes Widmalm-Delphonse on behalf of Plaintiff and Thomas Castelli and Deanna Chang on behalf of Defendants.

## 2. Claims

Plaintiff, Jessica Bates, brings three causes of action and states the elements of each as follows:

### A. First Amendment Free Speech and Freedom of Assembly

- i. Bates' speech and expressive association are protected expressive activities;
- ii. Defendants' policy infringes on Bates' speech and expressive association
  - a. Defendants' policy compels Bates to speak messages and to associate with messages she objects to; and/or
  - b. Defendants' policy compels Bates to refrain from speaking messages and to refrain from associating with messages she wishes to communicate and associate with; and/or
  - c. Defendants' policy regulates Bates' speech based on content and viewpoint; and
- iii. Defendants' policy fails strict scrutiny.

### B. First Amendment Free Exercise

- i. Defendants' policy substantially burdens Bates' religious exercise;
- ii. Defendants' policy infringes on Bates' religious exercise
  - a. Defendants' policy is not neutral or generally applicable; and/or
  - b. Defendants' policy is inconsistent with the First Amendment's history and tradition favoring religious exemptions;
- iii. Defendants' policy fails strict scrutiny.

### C. Fourteenth Amendment Equal Protection

- i. Bates is similarly situated to other adoption applicants; and
- ii. Defendants are intentionally treating Bates differently and less favorably because of her religious beliefs.

Defendants Fariborz Pakseresht, Liesl Wendt, Aprille Flint-Gerner, Rebecca Garrison, and Cecilia Garcia deny the allegations. Defendants maintain that the State's policy serves a compelling state interest and does not infringe on Plaintiff's right to free speech or exercise of her religion or violate the equal protection clause.

### **3. Discovery and Pretrial Deadlines**

#### **A. Rule 26(a)(1) initial disclosures**

The parties agree to exchange initial disclosures by August 4, 2023.

#### **B. Deadline to amend pleadings**

The parties propose to extend the deadline for amended pleadings pursuant to Fed. R. Civ. P. 15 until 30 days after this Court rules on Plaintiff's Motion for Preliminary Injunction (Doc. 14).

#### **C. Deadline to join claims, remedies, and parties**

The parties propose to extend the deadline for joining claims, remedies, and parties pursuant to Fed. R. Civ. P. 18 and 19 until 30 days after this Court rules on Plaintiff's Motion for Preliminary Injunction (Doc. 14).

#### **D. Discovery**

The parties propose to complete all fact discovery by April 1, 2024. The parties contemplate discovery on the subjects identified in the Verified Complaint (Doc. 1) and Defendants' Answer (Doc. 35). Additionally, the parties contemplate additional discovery based on witnesses and other persons with knowledge of events relevant to Plaintiff's claims and Defendants' defenses that the parties will disclose pursuant to their initial disclosures under Fed. R. Civ. P. 26(a)(1).

The parties shall identify and disclose all initial expert witnesses and expert reports on or before May 1, 2024. The parties shall identify and disclose rebuttal

witnesses and reports on or before July 1, 2024. All expert witnesses shall be deposed on or before September 2, 2024.

Discovery motions will be filed on or before October 4, 2024.

**E. Dispositive motions**

The parties will file any dispositive motions by October 11, 2024. Pursuant to LR 7-1(f), response briefs shall be filed within 21 days of service of a dispositive motion. A reply brief may be filed within 14 days of service of the response.

**F. Alternate Dispute Resolution**

At this time, the parties do not believe ADR will be helpful to resolve the claims in this case.

**G. Trial and pretrial order**

The parties propose that the Court schedule a trial date and deadlines for pretrial orders, motions in limine, witness lists, and exhibit lists after it rules on dispositive motions. If the Court so prefers, the parties will propose a trial date within 30 days of the Court's ruling on dispositive motions.

**4. Magistrate judge**

The parties do not consent to a magistrate judge.

Respectfully submitted this 24<sup>th</sup> day of July, 2023.

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**Certificate of Service**

I hereby certificate that on July 24, 2023, I filed a true and accurate copy of the foregoing document with the Clerk of Court using the CM/ECF system, which automatically sends an electronic notification to all counsel of record who are registered users of the ECF system.

Dated: July 24, 2023

*s/ Johannes Widmalm-Delphonse*  
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